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NO. 4471

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Atty. Dkt. No. 074066-0105

OFFICIAL

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: 21st Century Medicine
Title: Hypertonic Reduction of Chilling Injury
Appl. No.: 09/916,032
Filing Date: 07/26/2001
Examiner: Deborah K. Ware
Art Unit: 1651

CERTIFICATE OF FACSIMILE TRANSMISSION I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. 703-308-6816, Alexandria, Virginia on the date below. <u>Line Gauthier</u> (Printed Name) <u>Pierre Gauthier</u> (Signature) <u>July 21, 2003</u> (Date of Deposit)
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PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R. § 1.181(a)

Mail Stop Petition
Commissioner for Patents
PO Box 1450
Alexandria, Virginia 22313-1450

Sir:

The Applicant received a Notice of Abandonment mailed May 20, 2003 for the above-identified application because a reply was never made to the Office Action mailed by the Office on September 26, 2002. However, the Office Action was never received by Applicant's attorney of record.

The Office Action was apparently sent to the previous address of record, even though a Power of Attorney (copy attached as Appendix A) was mailed to the PTO well before dispatch of the Office Action by the PTO, i.e., on October 11, 2001, and directed that correspondence be sent to the present address of record.

The present address of record is repeated below:

Foley & Lardner
One Maritime Plaza, Sixth Floor
San Francisco, CA 94111-3404
Telephone: 415-438-6454
Facsimile: 415-434-4507

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Under the reasoning of *Delgar*, the Office may consider a petition to withdraw the holding of abandonment and, if adequately supported, should grant the petition and remail the Office Action. *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971). MPEP 711.03(c)(III).

Also attached are a copy of the Notice of Abandonment, showing it was mailed to an incorrect address (Appendix B), and a copy of the relevant docket record of Applicant's attorney, illustrating that the Office Action mailed September 26, 2002 was not recorded on the docket record (Appendix C).

In view of the above evidence, Applicant hereby petitions for withdrawal of the holding of abandonment and requests the Office Action be remailed to the correct address of record and that Applicant given an opportunity to respond.

No fee is believed due with this petition per 37 CFR 181 (d), but the Commissioner is hereby authorized to charge any fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-0872. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-0872.

Date July 21, 2003

Respectfully submitted,

FOLEY & LARDNER

Customer Number: 30542



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By

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